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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,759	10/22/2003	William H. Advocate	FIS920030224US1	5365

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HOFFMAN WARNICK LLC  
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EXAMINER
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BECKLEY, JONATHAN R

ART UNIT	PAPER NUMBER
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2625

NOTIFICATION DATE	DELIVERY MODE
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07/09/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/690,759	<b>Applicant(s)</b> ADVOCATE ET AL.	
	<b>Examiner</b> JONATHAN R. BECKLEY	<b>Art Unit</b> 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,8-10,14-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,8-10,14-17 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/22/2003</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 4-6, 8-10, 14-17 and 20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 4-6, 8-10, 14-17, and 20** are rejected under **35 U.S.C. 103(a)** as being unpatentable over obviousness by **El-Gazzar et al. (U.S. Patent # 7,184,160 B2)** combined with **McCormick et al. (US Patent # 6,421,709 B1)**, and further in view of **Shimura et al. (US Publication 2004/0105689)**.

Regarding **Claim 1**, **El-Gazzar** does teach a method of handling a facsimile image received by a facsimile system (**Figure 1; Column 3, lines 21-23**), the method comprising the steps of:

comparing a junk fax image stored in a junk fax database to an incoming facsimile image (**Column 3, lines 51-55**);

disposing of the incoming facsimile image in the case that the junk fax image matches at least a portion of the incoming facsimile image (**Column 5, lines 40-44**);

wherein if a match does not exist, the method further comprises:

determining whether the incoming facsimile is of a junk fax (**Column 2, lines 50-64**), wherein the outputting includes printing the oncoming facsimile image through the facsimile system (**Column 6, lines 24-35**); and

processing the incoming facsimile image in the case that the toner count is below a threshold (**Column 4, lines 13-53; and Column 7, lines 35-48**).

**El-Gazzar** does not teach wherein the determining includes: displaying at least a portion of the incoming facsimile image before outputting the image, and allowing a recipient to view the at least a portion of the displayed image to determine whether the incoming facsimile image is of a junk fax; saving at least a portion of the incoming facsimile image as a junk fax image in the junk fax database in the case that the incoming facsimile image is of a junk fax; and

calculating a toner count of at least a portion of the incoming facsimile.

**El-Gazzar combined with McCormick** does teach wherein the determining includes: displaying at least a portion of the incoming facsimile image before outputting the image, and allowing a recipient to view the at least a portion of the displayed image to determine whether the incoming facsimile image is of a junk fax (**Column 2, lines 50-64**); saving at least a portion of the incoming facsimile image as a junk fax image in the junk fax database in the case that the incoming facsimile image is of a junk fax (**Column 2, lines 64-66**).

El-Gazzar and McCormick are combinable because they are both from the same art and classification of processing user data in response to a demand to transfer data between the computers while detecting for spam within an image processing device.

Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify El-Gazzar with the teachings of McCormick, so to further develop the method of filtering and shielding from the annoyance of unsolicited junk messages (**Column 1, line 49 - Column 2, line 10**).

**El-Gazzar combined with McCormick** does not teach calculating a toner count of at least a portion of the incoming facsimile.

**El-Gazzar combined with McCormick and further in view of Shimura** does teach calculating a toner count of at least a portion of the incoming facsimile (**Paragraph 12; Paragraph 15, Paragraph 197 and 200; Paragraphs 293-295; and Paragraph 390**).

El-Gazzar and McCormick and Shimura are combinable because they are all from the same art and classification of processing user data in response to a demand to transfer data between the computers while detecting for spam within an image processing device which uses toner thresholds as determining factors to further continue processing.

Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify El-Gazzar combined with McCormick with the teachings of Shimura to further develop the condition controlling process of the image processing apparatus using determined parameters expressing the state of toner.

Regarding **Claim 4, El-Gazzar combined with McCormick and further in view of Shimura** further discloses, wherein the junk fax image includes at least a portion of an analyzed facsimile image that has been designated as a junk fax (**El-Gazzar: Col. 4, lines 18-35**.)

Regarding **Claim 5, El-Gazzar combined with McCormick and further in view of Shimura** further discloses, wherein the junk fax image database includes a plurality of junk fax images, and the step of disposing occurs in the case that at least one of the plurality of junk fax images matches at least a portion of the incoming facsimile image (**El-Gazzar: Col. 5, lines 35-50.**)

Regarding **Claim 6, El-Gazzar combined with McCormick and further in view of Shimura** further discloses wherein the disposing step includes one of:

- a) deleting the incoming facsimile image (**El-Gazzar: Col. 6, lines 24-28**); and
- b) terminating (quarantined) communication of the incoming facsimile image to the facsimile system (**El-Gazzar: Col. 6, lines 24-28; Col. 4, lines 53-61.**)

Regarding **Claim 8, El-Gazzar combined with McCormick and further in view of Shimura** further discloses wherein the incoming facsimile image is generated by scanning a hard copy document (**inherently met by the functionality of the facsimile device**).

Regarding **Claim 9, El-Gazzar** does teach a facsimile system (**Col. 3, lines 19-27**) comprising:

- a receiver configured to receive an incoming facsimile image (**Figure 2**); and

a junk fax analyzer (**fax transformation processor**) comprising:

a comparator configured to compare a junk fax image to the incoming facsimile image (**Col.3, lines 51-55**); and

a disposal configured to dispose of the incoming facsimile image in the case that the junk fax image matches at least a portion of the incoming facsimile image (**Col. 5, lines 40-44; Col. 6, lines 24-28.**); and

junk fax determinator wherein the outputting includes printing the incoming facsimile image through the facsimile system. (**Column 6, lines 24-35**).

**El-Gazzar** does not teach a junk fax determinator configured to determine whether the incoming facsimile image is a junk fax, and save at least a portion of the incoming facsimile image as a junk fax image .in a junk fax database in the case that the incoming facsimile image is a junk fax wherein the junk fax determinator includes: a display configured to display at least a portion of the incoming facsimile image before the image is outputted; an interface configured to allow a recipient to view the at least a portion of the displayed image to input whether the incoming facsimile image is a junk fax; and a selector configured to allow the recipient to select at least a portion of the incoming facsimile image to be saved as the junk fax image.

**McCormick** does teach a junk fax determinator configured to determine whether the incoming facsimile image is a junk fax, and save at least a portion of the incoming facsimile image as a junk fax image .in a junk fax database in the case that the incoming facsimile image is a junk fax (**Column 2, lines 50-66**); wherein the junk fax determinator includes: a display configured to display at least a portion of the incoming facsimile image before the image is outputted (**Column 2, lines 50-66**); an interface configured to allow a recipient to view the at

least a portion of the displayed image to input whether the incoming facsimile image is a junk fax (**Column 2, lines 50-66**); and a selector configured to allow the recipient to select at least a portion of the incoming facsimile image to be saved as the junk fax image (**Column 2, lines 50-66**).

El-Gazzar and McCormick are combinable because they are both from the same art and classification of processing user data in response to a demand to transfer data between the computers while detecting for spam within an image processing device.

Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify El-Gazzar with the teachings of McCormick, so to further develop the method of filtering and shielding from the annoyance of unsolicited junk messages (**Column 1, line 49 - Column 2, line 10**).

Regarding **Claim 10, El-Gazzar combined with McCormick** further discloses a facsimile system (**El-Gazzar: Col. 3, lines 19-27**) comprising:

- a receiver configured to receive an incoming facsimile image (**El-Gazzar: Figure 2**); and

- a junk fax analyzer (**El-Gazzar: fax transformation processor**) comprising:

- a comparator configured to compare a junk fax image to the incoming facsimile image (**El-Gazzar: Col.3, lines 51-55**); and

- a disposal configured to dispose of the incoming facsimile image in the case that the junk fax image matches at least a portion of the incoming facsimile image (**El-Gazzar: Col. 5, lines 40-44; Col. 6, lines 24-28**); and



junk fax determinator wherein the outputting includes printing the incoming facsimile image through the facsimile system. **(El-Gazzar: Column 6, lines 24-35).** ;

configured to determine whether the incoming facsimile image is a junk fax, and save at least a portion of the incoming facsimile image as a junk fax image .in a junk fax database in the case that the incoming facsimile image is a junk fax **(McCormick: Column 2, lines 50-66);**

wherein the junk fax determinator includes: a display configured to display at least a portion of the incoming facsimile image before the image is outputted **(McCormick: Column 2, lines 50-66);**

an interface configured to allow a recipient to view the at least a portion of the displayed image to input whether the incoming facsimile image is a junk fax **(McCormick: Column 2, lines 50-66);**

and a selector configured to allow the recipient to select at least a portion of the incoming facsimile image to be saved as the junk fax image **(McCormick: Column 2, lines 50-66).**

**El-Gazzar combined with McCormick** does not further discloses, wherein the junk fax analyzer further comprises a toner count calculator configured to calculate a toner count of at least a portion of the incoming facsimile image .

**El-Gazzar combined with McCormick and further in view of Shimura** does teach the junk fax analyzer further comprises a toner count calculator configured to calculate a toner count of at least a portion of the incoming facsimile image **(Paragraph 12; Paragraph 15, Paragraph 197 and 200; Paragraphs 293-295; and Paragraph 390).**

El-Gazzar and McCormick and Shimura are combinable because they are all from the same art and classification of processing user data in response to a demand to transfer data between the computers while detecting for spam within an image processing device which uses toner thresholds as determining factors to further continue processing.

Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify El-Gazzar combined with McCormick with the teachings of Shimura to further develop the condition controlling process of the image processing apparatus using determined parameters expressing the state of toner.

Regarding **Claim 14, El-Gazzar combined with McCormick** further discloses, wherein the junk fax image includes at least a portion of one of: an analyzed facsimile image from a previous communication to the facsimile system and an image of a hard copy document (**El-Gazzar: Col. 6, lines 18-28.**)

Regarding **Claim 15, El-Gazzar combined with McCormick** further discloses, wherein the junk fax image includes a plurality of junk fax images, and the step of disposing occurs in the case that at least one of the plurality of junk fax images matches at least a portion of the incoming facsimile image (**El-Gazzar: Col. 5, lines 35-44; Col. 6, lines 26-35.**)

Regarding **Claim 16 El-Gazzar combined with McCormick** further discloses wherein the disposal includes:

a) means for deleting the incoming facsimile image (**El-Gazzar: Col. 6, lines 24-35**);

and

b) means for terminating communication of the incoming facsimile image to the facsimile system (**El-Gazzar: Col. 6, lines 24-35**).

Regarding **Claim 17 El-Gazzar** does teach a computer program product comprising a computer useable medium having computer readable program code embodied therein for analyzing an image on a facsimile system (**Col. 8, lines 15-30**), the program product comprising:

program code configured to compare a junk fax image stored in a junk fax database to an incoming facsimile image (**Column 7, lines 49-54**); and

program code configured to dispose of the incoming facsimile image in the case that the junk fax image matches at least a portion of the incoming facsimile image (**Column 6, lines 20-28**);

wherein the determining program code is configured to wherein the outputting includes printing the incoming facsimile image through the facsimile system (**Column 6, lines 24-35**)

**El-Gazzar** does not teach program code configured to determine whether the incoming facsimile image is of a junk fax in the case that a match does not exist, and save at least a portion of the incoming facsimile image as a junk fax image, in a junk fax database in the case that the incoming facsimile image is of a junk fax; wherein the determining program code

includes: program code configured to display at least a portion of the incoming facsimile image before the image is outputted; and

program code configured to allow a recipient to view the at least a portion of the displayed image to input whether the incoming facsimile image is a junk fax.

**El-Gazzar combined with McCormick** does teach program code configured to determine whether the incoming facsimile image is of a junk fax in the case that a match does not exist, and save at least a portion of the incoming facsimile image as a junk fax image, in a junk fax database in the case that the incoming facsimile image is of a junk fax (**Column 2, lines 50-66**); wherein the determining program code includes: program code configured to display at least a portion of the incoming facsimile image before the image is outputted (**Column 2, lines 50-66**); and program code configured to allow a recipient to view the at least a portion of the displayed image to input whether the incoming facsimile image is a junk fax (**Column 2, lines 50-66**).

El-Gazzar and McCormick are combinable because they are both from the same art and classification of processing user data in response to a demand to transfer data between the computers while detecting for spam within an image processing device.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify El-Gazzar with the teachings of McCormick, so to further develop the method of filtering and shielding from the annoyance of unsolicited junk messages (**Column 1, line 49 - Column 2, line 10**).

Regarding **Claim 20 El-Gazzar combined with McCormick** further discloses wherein the disposing program code (**Col. 6, lines 24-35**) includes program code configured to conduct one of:

- a) delete (**discard**) the incoming facsimile image (**El-Gazzar: Col. 6, lines 24-35**); and
- b) terminate (**quarantine**) communication of the incoming facsimile image to the facsimile system (**El-Gazzar: Col. 6, lines 24-35**).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN R. BECKLEY whose telephone number is (571)270-3432. The examiner can normally be reached on Mon-Fri: 7:30-5:00 EST (Alternate Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on 571-272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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